



February 21, 2006

ENGROSSED SENATE BILL No. 205

DIGEST OF SB 205 (Updated February 9, 2006 9:17 am - DI 87)

Citations Affected: IC 5-14.

Synopsis: Disclosure of electronic mail account addresses. Provides that a public agency: (1) is not required to create or provide lists of electronic mail account addresses unless required by statute; (2) is not required to allow a person to inspect and make memoranda abstracts from a list of electronic mail account addresses; (3) may not disclose certain lists (including electronic mail account addresses) to commercial entities for commercial purposes; and (4) may not disclose certain lists (including electronic mail account addresses) to any individual or entity for political purposes. Provides that if a prohibited disclosure nevertheless occurs, a commercial entity may not use the disclosed information for commercial purposes and any individual or entity may not use the disclosed information for political purposes. Defines political purposes.

Effective: Upon passage.

Drozda

(HOUSE SPONSORS — KOCH, HEIM)

January 9, 2006, read first time and referred to Committee on Economic Development and Technology.

January 19, 2006, reported favorably — Do Pass.

January 24, 2006, read second time, amended, ordered engrossed.

January 25, 2006, engrossed.

January 26, 2006, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 2, 2006, read first time and referred to Committee on Government and Regulatory Reform.

February 21, 2006, reported — Do Pass.

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February 21, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 205

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-14-3-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any person may inspect
3 and copy the public records of any public agency during the regular
4 business hours of the agency, except as provided in section 4 of this
5 chapter. A request for inspection or copying must:

6 (1) identify with reasonable particularity the record being
7 requested; and

8 (2) be, at the discretion of the agency, in writing on or in a form
9 provided by the agency.

10 No request may be denied because the person making the request
11 refuses to state the purpose of the request, unless such condition is
12 required by other applicable statute.

13 (b) A public agency may not deny or interfere with the exercise of
14 the right stated in subsection (a). The public agency shall either:

15 (1) provide the requested copies to the person making the request;

16 or

17 (2) allow the person to make copies:

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(A) on the agency's equipment; or

(B) on the person's own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

(1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.

(2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map.

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses **(including electronic mail account addresses)** unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses **(excluding electronic mail account addresses)** it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The following lists of names and addresses **(including electronic mail**

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account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to any individual or entity for political purposes and may not be used by any individual or entity for political purposes. In addition, the lists of names and addresses (including electronic mail account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes. The prohibition in this subsection against the disclosure of lists for political or commercial purposes applies to the following lists of names and addresses (including electronic mail account addresses):

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) with respect to disclosure related to a commercial purpose, prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) with respect to disclosure related to a commercial purpose, specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes; or

(C) with respect to disclosure related to a political purpose, prohibiting the disclosure of the list to individuals and entities for political purposes.

A policy adopted under subdivision (3)(A) or (3)(B) must be uniform and may not discriminate among similarly situated commercial entities. For purposes of this subsection, "political purposes" means influencing the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question or attempting to solicit a contribution to influence the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question.

(g) A public agency may not enter into or renew a contract or an obligation:

- (1) for the storage or copying of public records; or
- (2) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records

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1 unless otherwise provided by applicable statute;
2 if the contract, obligation, license, or copyright unreasonably impairs
3 the right of the public to inspect and copy the agency's public records.
4 (h) If this section conflicts with IC 3-7, the provisions of IC 3-7
5 apply.
6 **SECTION 2. An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Economic Development and Technology, to which was referred Senate Bill No. 205, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 205 as introduced.)

FORD, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 205 be amended to read as follows:

Page 2, line 42, strike "following".

Page 3, line 1, after "addresses)" insert **"described in subdivisions (1) through (3)".**

Page 3, line 1, after "to" insert **"any individual or entity for political purposes and may not be used by any individual or entity for political purposes. In addition, the lists of names and addresses (including electronic mail account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to".**

Page 3, line 3, delete ":" and insert ". **The prohibition in this subsection against the disclosure of lists for political or commercial purposes applies to the following lists of names and addresses (including electronic mail account addresses):**".

Page 3, line 12, after "(A)" insert **"with respect to disclosure related to a commercial purpose,".**

Page 3, line 13, strike "or".

Page 3, line 14, after "(B)" insert **"with respect to disclosure related to a commercial purpose,".**

Page 3, line 16, delete "." and insert **"; or"**.

Page 3, between lines 16 and 17, begin a new line double block indented and insert:

"(C) with respect to disclosure related to a political purpose, prohibiting the disclosure of the list to individuals and entities for political purposes."

Page 3, line 17, strike "(3)" and insert **"(3)(A) or (3)(B)".**

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Page 3, line 18, after "entities." insert **"For purposes of this subsection, "political purposes" means influencing the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question or attempting to solicit a contribution to influence the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question."**

(Reference is to SB 205 as printed January 20, 2006.)

Senator DROZDA

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Senate Bill 205, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BUCK, Chair

Committee Vote: yeas 9, nays 1.

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